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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1329/2006

YADUNANDAN SHARMA VS. STATE OF RAJASTHAN

Date of order: 18.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. S.S. Hora for the petitioner.

Mr. S.N. Gupta, Public Prosecutor for the State.

The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the petitioner against the order dated 07.10.2006 passed by the Additional Sessions Judge (Fast Track) No.3, Bundi in Sessions Case No. 39/2006, whereby additional charges have been framed against Yadunandan Sharma and Ajat Shatru for the offence under Sections 3/25 and 3/30 of the Arms Act and they were also called but the prayer which was made by the petitioner that in eventuality of framing additional charges under Sections 3/25 and 3/30 of the Arms Act, witnesses Zakir Hussain, Khadim Hussain and Wasim Qureshi be recalled as they are essentially required, has been rejected and in the interest of justice it is necessary that they may be recalled.

Upon careful perusal of the impugned order dated 07.10.2006, it appears that the application moved

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on behalf of the prosecution has been allowed for framing additional charges against Yadunandan Sharma and Ajat Shatru under Sections 3/25 and 3/30 of the Arms Act but the prayer made on behalf of the petitioner that the aforesaid witnesses may be recalled, has been rejected.

I find illegality and error apparent on the face of the record and the trial Court has committed an illegality in disallowing the application moved on behalf of the petitioner. Therefore, so far as rejection of the application moved on behalf of the petitioner is concerned, the impugned order dated 07.10.2006 passed by the Additional Sessions Judge (Fast Track) No.3, Bundi is hereby quashed and set-aside and for reconsideration the matter is remanded back to the Court below for deciding the application moved on behalf of the petitioner on its merit afresh for recalling the aforesaid witnesses. The rest of the impugned order dated 07.10.2006 is upheld and requires no interference by this Court.

With the aforesaid observations, the revision petition stands disposed of.

Record be sent back forthwith.

(K.S. RATHORE), J.

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